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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,733	11/12/2003	Steven Landau	Touchgraphics-1	7961
7590	08/19/2005		EXAMINER	
Ted Sabety, Esq. Sabety +associates 36th Fl. One Penn Plaza New York, NY 10119			ZANELLI, MICHAEL J	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,733

Applicant(s)

LANDAU, STEVEN

Examiner

Michael J. Zanelli

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,19-21 and 26-30 is/are rejected.
- 7) ☒ Claim(s) 4-18 and 22-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This is responsive to the amendment filed 5/26/05. Claims 1, 2 and 4-30 are pending.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Applicant is requested to resubmit the changes to the Brief Description of the Drawings under the heading of "Amendments to the Specification" to facilitate proper scanning and indexing of the paper into the IFW system.

4. The disclosure is objected to because of the following informalities:

Applicant has not amended the detailed description to refer to the newly relabeled Fig. 3 (i.e., see page 6 of specification).

Appropriate correction is required.

5. Claim 30 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. While the specification as originally filed discloses providing text to speech capabilities in the handset and computer(s), it does not disclose providing such capabilities in the audio beacons.

6. Claims 20, 21/20 and 29 are objected to because of the following informalities:

- A. As per claim 20, change period to semicolon at line 4.
- B. As per claim 29, since this is a "new" claim there should be no underlining.
- C. All claims depending from an objected base claim are also objected to as containing the same deficiencies.

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7. Claims 21/19 and 26-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. As per claim 21/19, "the route ..." lacks antecedence. Note claim 20 introduces this limitation.

B. As per claims 26 and 28, "the determining step" lacks antecedence. Note that the determining step was deleted from claim 19 by amendment.

C. All claims depending from a rejected base claim are also rejected as containing the same deficiencies.

8. Claims 19, 26 and 27 stand rejected under 35 U.S.C. 102(b) as being anticipated by Friedman (4,935,907).

A. As per claim 19, Friedman discloses a method of guiding a person to a given destination by transmitting a request to produce a cue sound and emitting a sound from an audio device located at the given destination (Abs; col. 1, lines 31-36; col. 4, lines 37-43).

B. As per claims 26 and 27, as above whereby a portable handset allows one to select a desired destination via at least a keypad with audio output (col. 5, lines 22-29) and that the destinations can be within a defined living space (Fig. 2).

9. Claim 19 further stands rejected under 35 U.S.C. 102(b) as being anticipated by Osaka (4,660,022).

A. As per claim 19, Osaka discloses a method of guiding a visually impaired person in which the person is guided to a given destination by an audio beacon located at the

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destination upon being activated by the person in response to a request for guidance (Abs; col. 1, lines 54-60; col. 2, lines 18-31).

10. Claims 1, 2 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Toal, Jr. (4,797,671).

A. As per claims 1 and 19, Toal discloses an auditory system and method to aid a user in navigating to a destination (i.e., parked vehicle). The system includes a handheld device whereby upon pressing a button communicates with a computing device located with the vehicle and controls an "audio beacon" which assists the user in navigating to the vehicle. The particular beacon is selected by interaction of the user and the handheld device whereby a coded signal transmitted by the device activates a particular beacon (i.e., user's vehicle among a plurality of vehicles). See Abs; Figs. 1-3.

B. As per claim 2, as above whereby the sound is emitted from the beacon which may be programmed to emit a particular sound (col. 2, lines 29-42).

11. Claims 4-18 and 22-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited documents are of general interest.

13. **REMARKS**

A. The rejection in view of Hull has been withdrawn in view of the Affidavit filed 5/26/05.

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B. With regards to the rejection in view of Friedman, the examiner disagrees with applicant's characterization of the reference in view of the claim language. Applicant states that the external modules do not produce audio intended to be heard by the user; however, col. 4, lines 37-43 states that the remote module sends an audible signal that the user can trace.

C. With regards to the rejection in view of Osaka, the examiner disagrees with applicant's characterization of the reference in view of the claim language. Applicant argues that the reference does not mention that the user may select which of destinations A, B or C may be selected; however, claim 19 does not require selection of a destination from among a plurality of destinations. Claim 19 merely requires receiving from a user's handheld device an indication of *a selected destination*. If the user wants to reach destination B and activates the handheld device, then the user has in fact selected a destination.

D. With regards to the new rejection in view of Toal, applicant has significantly broadened at least claim 1 to read on a motor vehicle locator system which allows one to locate a vehicle based on emitted sound.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Zanelli whose telephone number is (571) 272-6969. The examiner can normally be reached on Monday-Thursday 8:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/mjz


MICHAEL J. ZANELLI
PRIMARY EXAMINER